

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

DARYL DUDE NELSON,

Petitioner, Civil No. 2:16-CV-12260
v. HONORABLE DENISE PAGE HOOD
CHIEF UNITED STATES DISTRICT JUDGE

SHANE JACKSON,

Respondent,

/

**OPINION AND ORDER DENYING THE AMENDED
MOTION FOR RECONSIDERATION (ECF Nos. 43)**

Pending before the Court is petitioner's amended motion for reconsideration.

For the reasons that follow, the motion is DENIED.

Petitioner filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254, which was denied. *Nelson v. Jackson*, No. 2:16-CV-12260, 2016 WL 6441287 (E.D. Mich. Oct. 31, 2016); *appeal dism.* No. 16-2623, 2017 WL 5624278 (6th Cir. July 17, 2017), *cert. denied*, 138 S. Ct. 478 (2017).

Petitioner filed a Rule 60(b) motion for relief from judgment and a motion to supplement the motion, as well as a motion to disqualify this Court. This Court denied motion for relief from judgment and declined to issue a certificate of appealability. (ECF No. 30). The motion to disqualify was denied. (ECF No. 31).

Petitioner has now filed two Notices of Appeal. (ECF No. 32, 36).

Petitioner's case is pending in the Sixth Circuit and his cases have been

consolidated. *See Nelson v. Jackson*, No. 20-1190/20-1210 (6th Cir. Apr. 23, 2020)(ECF No. 42).

This Court lacks jurisdiction to consider petitioner's amended motion for reconsideration because petitioner has filed a notice of appeal in this case. A notice of appeal generally "confers jurisdiction on the court of appeals and divests the district court of control over those aspects of the case involved in the appeal."

Marrese v. American Academy of Orthopaedic Surgeons, 470 U.S. 373, 379 (1985)(citing *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982)(per curiam)); *See also Workman v. Tate*, 958 F. 2d 164, 167 (6th Cir. 1992). Because petitioner has filed a notice of appeal, this Court lacks jurisdiction to amend its original opinion and order to reconsider the merits of petitioner's motion to disqualify. *Workman*, 958 F. 2d at 167-68; *See also Raum v. Norwood*, 93 F. App'x. 693, 695 (6th Cir. 2004)(Plaintiffs deprived district court of jurisdiction over their motion for reconsideration by filing notice of appeal before district court had chance to make decision on motion to reconsider).

IT IS HEREBY ORDERED that:

The amended motion for reconsideration (ECF No. 43) is **DENIED**.

s/Denise Page Hood

Chief Judge, United States District Court

Dated: May 18, 2020